

Misuse of the Disabled Access Credit

Presenter's Name
Contact Information
Date

Background

IRC § 44 – Disabled Access Credit

With the passage of the Americans with Disabilities Act (ADA) of 1990, Congress was concerned with the financial impact of this legislation on small businesses.

IRC § 44 – Disabled Access Credit

- Created credit for “eligible small businesses”
- Credit equals 50 percent of the “eligible access expenditures”
- Maximum cost per tax year of \$10,250
- Maximum credit per tax year of \$5,000

IRC § 44 – Disabled Access Credit

- Eligible small business:
 - Business with gross receipts in preceding tax year of under \$1 million or
 - If gross receipts were greater than \$1 million, employed not more than 30 full-time people, and
 - Business must elect the credit.

IRC § 44 – Disabled Access Credit

- Eligible access expenditures:
 - Amounts paid or incurred to comply with the Americans with Disabilities Act of 1990 which are reasonable and necessary to accomplish the goal of ADA compliance

Disabled Access Credit Schemes

- Marketed by insurance salespersons or investment advisors.
- Various scenarios – most common is investor pays a certain amount for an investment in a pay phone, ATM machine, Internet availability, or auto yellow pages.

Disabled Access Credit Schemes (Cont'd)

- Schemes violate qualifications of the credit.
- Marketers sell to investors who do not qualify as eligible small businesses AND the purchased investments are not required by the ADA.
- Marketers sell the equipment at prices far in excess of value.

Disabled Access Credit Schemes (Cont'd)

- Tax benefits marketed by the promoter:
 - Investment qualifies for maximum Disabled Access credit.
 - Investor qualifies for IRC § 179 depreciation.
 - Use a Roth IRA to make the investment.
 - Guaranteed refund of investment after specified period of time.

Need Additional Information? Contact Phone Number

If you have specific questions on a tax scheme or wish to report possible schemes, call the IRS at:

1-866-775-7474

or email the IRS at: irs.tax.shelter.hotline@irs.gov

Need Additional Information? Through the Web

- Visit Criminal Investigation's Tax Fraud Alert page at: www.ustreas.gov/irs/ci/
- Visit IRS's web site at: www.irs.gov

Need Additional Information? Through IRS Publications

All found on www.irs.gov:

- Pub. 3995, *Is It Too Good To Be True - Recognizing Illegal Tax Avoidance Schemes*
- Pub. 17, *Your Federal Income Tax for Individuals*
- Pub. 334, *Tax Guide for Small Business*

Questions?

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